

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #3	CCRB Case #: 201608765	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 10/10/2016 11:00 PM	Location of Incident: § 87(2)(b)	Precinct: 100	18 Mo. SOL 4/10/2018	EO SOL 4/10/2018	
Date/Time CV Reported Wed, 10/12/2016 7:33 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/18/2016 11:48 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Patrick Reilly	16493	957993	100 PCT
2. SGT Sean Turner	01807	935886	100 PCT
3. POM Andrew Ronan	8395	956218	100 PCT
4. POM Andrew Taormina	30097	955561	100 PCT
5. POM Jose Mejia	21146	935301	100 PCT
6. POM Jatinder Grover	22095	958658	100 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mark Beneducci	31734	954543	100 PCT
2. POM Joseph Rojas	14225	943753	100 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Patrick Reilly	Force: Police Officer Patrick Reilly pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.POM Andrew Ronan	Force: Police Officer Andrew Ronan pointed his gun at § 87(2)(b)	§ 87(2)(b)
C.POM Jatinder Grover	Force: Police Officer Jatinder Grover pointed his gun at § 87(2)(b)	§ 87(2)(b)
D.POM Andrew Taormina	Abuse: Police Officer Andrew Taormina drew his gun.	§ 87(2)(b)
E.SGT Sean Turner	Abuse: Sergeant Sean Turner entered § 87(2)(b) in Queens.	§ 87(2)(b)
F.POM Patrick Reilly	Force: Police Officer Patrick Reilly used physical force against § 87(2)(b)	§ 87(2)(b)
G.POM Andrew Ronan	Force: Police Officer Andrew Ronan used physical force against § 87(2)(b)	§ 87(2)(b)
H.POM Andrew Taormina	Force: Police Officer Andrew Taormina used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
I.POM Jatinder Grover	Discourtesy: Police Officer Jatinder Grover spoke discourteously to § 87(2)(b)	
J.SGT Sean Turner	Force: Sergeant Sean Turner used a Taser against § 87(2)(b)	
K.POM Jose Mejia	Force: Police Officer Jose Mejia used physical force against § 87(2)(b)	
L.SGT Sean Turner	Abuse: Sergeant Sean Turner searched § 87(2)(b) in Queens.	

Case Summary

§ 87(2)(b) filed this complaint with IAB, via telephone, on October 12, 2016. The CCRB received this complaint on October 18, 2016, under log number 16-36450.

On October 10, 2016, at approximately 11 p.m., § 87(2)(b) and five women were at his home – located at § 87(2)(b) in Queens – partying and drinking. § 87(2)(b) and the women (four of whom were identified by the investigation as § 87(2)(b) and § 87(2)(b) were about to leave to get something to eat when § 87(2)(b) observed that his gold chain, which he had placed on top of his T.V. stand, was missing. § 87(2)(b) asked the women if one of them could give him back his chain, and then picked up a machete that was near him. The women became frightened and one of them ran out of the apartment. Afterward, § 87(2)(b) put the machete away because he believed that the woman would call 911. A few minutes later, officers from the 100th Precinct responded to § 87(2)(b)'s residence. The officers then opened the door of § 87(2)(b)'s apartment and yelled, “Hands up. Don’t move.” PO Patrick Reilly, PO Andrew Ronan, and PO Jatinder Grover pointed their guns outside his door and PO Andrew Taormina drew his gun from outside the door (**Allegation A, B, C, D**). PO Ronan, PO Reilly, and PO Taormina then entered the apartment, forcibly took § 87(2)(b) to the floor, and attempted to restrain him (**Allegation E, F, G, and H**). While on the floor, § 87(2)(b) asked what he had done, to which PO Grover allegedly responded, “Shut the fuck up” (**Allegation I**). While on the floor, Sgt. Turner used his Taser to dry-stun on § 87(2)(b) (**Allegation J**). § 87(2)(b) was then placed in handcuffs and removed from the apartment. PO Jose Mejia escorted § 87(2)(b) to his RMP and placed him inside, but he allegedly shut the door on § 87(2)(b)'s foot and the door allegedly remained closed on his foot for approximately 15 minutes (**Allegation K**). Afterward, PO Mejia returned, opened the door, and told him to put his feet inside. § 87(2)(b) was then transported to § 87(2)(b) due to the use of the Taser against him. After being released from custody, § 87(2)(b) returned to his apartment and observed that it had been searched (**Allegation L**). § 87(2)(b) was charged with § 87(2)(b).

This case went over the 90-day benchmark due to exhaustive contact attempts to several potential witnesses.

§ 87(2)(g)

IAB is conducting a concurrent investigation of this incident. As of January 26, 2017, the investigation was still pending.

There was no video available for this incident.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to § 87(2)(b)'s arrest.
- As of January 18, 2017, § 87(2)(b) has not filed a Notice of Claim against the City of New York (BR 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officers' CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 03).
- PO Reilly has been a member of the NYPD for two years. This is his first CCRB complaint.
- PO Ronan has been a member of the NYPD for three years. This is his first CCRB complaint.
- Sgt. Turner has been a member of the NYPD for 12 years. He has been the subject of five allegations stemming from four complaints, with no substantiated allegations.
- PO Grover has been a member of the NYPD for one year. This is his first CCRB complaint.
- PO Mejia has been a member of the NYPD for 12 years. This is his first CCRB complaint.
- § 87(2)(g)

Potential Issues

- Three of the females present during the incident were identified by the investigation; however, only § 87(2)(b) provided a phone statement to the CCRB. § 87(2)(b) declined to participate and § 87(2)(b) was unresponsive to the CCRB's contact attempts.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) alleged that his apartment was entered and subsequently searched after he was arrested and removed from his apartment, though he did not witness it. § 87(2)(g)
- § 87(2)(b) alleged that an officer told him to "shut the fuck up" when he was on the ground, but he was unable to provide a physical description of the subject officer because he was on the floor face-down when the discourtesy was allegedly uttered. All of the officers interviewed for this case denied telling § 87(2)(b) to "shut the fuck up." However, PO Grover did acknowledge that he may have used profanity when speaking with § 87(2)(b) § 87(2)(g)
- § 87(2)(b) alleged general physical force was used against him while he was on the floor, which caused him to sustain scratches, abrasions, and swelling to the left side of his face, but he was unable to link specific uses of force to any officer. § 87(2)(b) alleged that he sustained the swelling to the left side of his face when an officer placed his knee on his face, but he was unable to describe the officer that did so. § 87(2)(b) was also unable to specify how he sustained the scratches and abrasions. PO Reilly, PO Ronan, and PO Taormina all acknowledged physically taking part in § 87(2)(b)'s apprehension. § 87(2)(g)

Allegation A – Force: Police Officer Patrick Reilly pointed his gun at § 87(2)(b)
Allegation B – Force: Police Officer Andrew Ronan pointed his gun at § 87(2)(b)
Allegation C – Abuse of Authority: Police Officer Jatinder Grover drew his gun.
Allegation D – Abuse of Authority: Police Officer Andrew Taormina drew his gun.
Allegation E – Abuse of Authority: Sergeant Sean Turner entered § 87(2)(b) in Queens.

On October 10, 2016, at approximately 11 p.m., at § 87(2)(b) § 87(2)(b) in Queens, § 87(2)(b) was “chilling” and drinking with five women at his house – four of whom were identified as § 87(2)(b) and § 87(2)(b). As they were getting ready to leave to get food, § 87(2)(b) noticed that his chain, which he had placed on the T.V. stand next to a ring, was missing. § 87(2)(b) stated to the women, “Can anyone who picked up my chain put it down, please. We’re not leaving until I get my chain. I need my chain. My father gave it to me for my birthday.” The women stated that they did not have it. § 87(2)(b) had a machete near him, so he picked it up and stated, “Please, can someone put down my chain.” § 87(2)(b) explained that he uses the machete to clean up the yard and he denied swinging it or threatening the women with it. The women became frightened and § 87(2)(b) ran outside. § 87(2)(b) put the machete in his bedroom, underneath a drawer, because he believed one of the women would call 911, and then followed § 87(2)(b) outside and stated, “Please don’t leave because it’s going to look like you took the chain. Please don’t leave. Let me get my chain.” § 87(2)(b) did not come back, so § 87(2)(b) went back inside his house, leaving his apartment door open, and continued asking the other women for his chain. § 87(2)(b) was inside with the women for two to three minutes when he heard, “Hands up. Don’t move,” and observed approximately seven officers, three of whom were pointing their guns at him. The officers entered the apartment (BR 04). § 87(2)(g)

In § 87(2)(b)’s phone statement, she corroborated that she and four other women were at § 87(2)(b)’s having a party and consuming alcohol. When § 87(2)(b) accused the women of having stolen his chain, § 87(2)(b) became loud, which she found intimidating because of his Jamaican accent, but she did not recall § 87(2)(b) possessing a machete or threatening anyone with a machete. Three of the girls then left the apartment. Approximately ten minutes later, officers arrived to the apartment, opened the door, and stated, “Freeze,” with their guns drawn. § 87(2)(b) acknowledged that her alcohol consumption may have affected her recollection of the incident (BR 06).

PO Reilly testified that he and his partner received a call about a dispute with a machete at § 87(2)(b). Upon arrival, PO Reilly realized that the address was incorrect because he observed a female running away from the general direction of § 87(2)(b)’s apartment. The female was “screaming hysterically” and crying. She informed PO Reilly that § 87(2)(b) had a machete and that two of her friends were still inside. PO Reilly and PO Ronan approached the apartment, whose entrance was at the right side of the house. As he approached the apartment, PO Reilly heard a “blood curdling” scream coming from inside the apartment. Other officers had arrived to the location by this point. PO Reilly was unable to see what was happening in the apartment. PO Reilly then pointed his gun in the door’s direction while PO Ronan opened the door. PO Reilly did not immediately observe anyone inside, so he commanded anyone inside to come out. A female – who was “hysterical” and screaming – then came running out of the back bedroom and stated, “He’s in there,” and ran out of the apartment. § 87(2)(b) then exited his bedroom. He did not have a machete in hand and he did not have any bulges on his person.

indicative of a weapon. The officers issued § 87(2)(b) commands, but he did not comply and walked towards the officers. § 87(2)(b) did not take any other actions while he walked towards them. PO Reilly and the other officers then holstered their guns and entered the apartment to gain control of § 87(2)(b) (BR 07).

PO Ronan testified that he observed two screaming females running from the direction of § 87(2)(b)'s apartment, and that they stated, "He's going to kill us. There's two more people inside." PO Ronan also asked the females what type of knife § 87(2)(b) had, and they stated it was a machete. PO Ronan noted that he drew his weapon as he approached the apartment because he heard a female scream, he heard "crashes and bangs," and because he believed that the individuals inside of the apartment were in imminent danger and that someone was being "hacked up" with a machete. PO Ronan recalled that the door to the apartment was opened, and that they commanded the individuals inside to meet them at the door. A female then came to the door and was removed from the apartment. There was a second female inside, but she did not come out. § 87(2)(b) then came out of the bedroom, which was approximately ten feet away from the entrance, and PO Ronan pointed his gun at him. PO Ronan did not recall if he observed any noticeable bulges on § 87(2)(b). § 87(2)(b) walked towards the officers and asked what was happening. § 87(2)(b) was commanded multiple times to get on the ground, but he did not comply and continued walking towards the officers, at which point officers entered the apartment to gain control of him (BR 08).

§ 87(2)(g)
§ 87(2)(b) Sgt. Turner acknowledged drawing his Taser prior to the door being opened, and PO Grover acknowledged drawing his gun prior to the door being opened, but he re-holstered it to prevent "cross-fire" when he observed that other officers in front of him had drawn their guns (BR 09, 10). PO Taormina also drew his gun prior to the door being opened. Once the door was opened, however, PO Taormina re-holstered it because he observed a female near the entrance. PO Taormina then walked up the few steps leading to the door, grabbed the female by the arm, pulled her out, and took her to the side of the apartment, away from the door. From his vantage point, PO Taormina was unable to see inside of the apartment, but he observed the officers pointing their guns and commanding § 87(2)(b) to "get on the ground" (BR 11).

The Event Information document determined that a female contacted 911 at approximately 11:08 p.m., requesting assistance because of a male with a knife. The caller also told the dispatcher to "hurry." The caller specified that she was hiding under a truck and that two of her friends were still inside with the perpetrator. The document also noted that a female was heard screaming in the background. The first unit arrived at the location at approximately 11:10 p.m. The Event Unit Information document also noted that five units responded to the location in regards (BR 12). The 911 message CD corroborated the information noted in the Event Information, and also corroborated that the female expressed that she feared for her life and stated, "He's going to kill us" (BR 16). The Complaint Report and § 87(2)(b)'s Arrest Report both note that § 87(2)(b) swung a machete at the female complainant, and would have hit her had she not moved (BR).

An officer may draw and point their firearm if they have a reasonable fear for their own or any other person's safety. Determination of whether the pointing of a firearm rises to the level of misconduct must be made by assessing the reasonableness of the officer's actions in the totality of the surrounding circumstances. PD v. Gliner, OATH Index No. 955/00 (BR 13). The decision

to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. NYPD Patrol Guide, Section 221-01 (BR 14).

A warrantless entry into a person's home may be justified by the "emergency" doctrine when the following requirements are present: (1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; (2) the search must not be primarily motivated by intent to arrest or seize evidence; (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched. People v. Mitchell, 39 N.Y.2d 173 (1976) (BR 15).

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Force: Police Officer Patrick Reilly used physical force against § 87(2)(b)

Allegation G – Force: Police Officer Andrew Ronan used physical force against § 87(2)(b)

Allegation H – Force: Police Officer Andrew Taormina used physical force against § 87(2)(b)

Allegation J – Force: Sergeant Sean Turner used a Taser against § 87(2)(b)

§ 87(2)(b) alleged that once he saw the officers with their guns pointed at him, he raised his hands and several officers ran inside and pushed him to the floor. § 87(2)(b) was unable to state how many officers made physical contact with him and he was unable to describe any of them. § 87(2)(b) was placed on his stomach, and he then felt a gun to his back and to his neck. § 87(2)(b) alleged that he felt hands all over his body and that an officer placed his

knee against the left side of his face, but he was unable to describe the officer that did so. Soon after, § 87(2)(b) was dry-stunned with a Taser on his back for a few seconds. § 87(2)(b) alleged that the officers did not issue him any commands or warnings prior to using the Taser. Afterward, officers grabbed his hands and handcuffed him. § 87(2)(b) denied that he resisted arrest, and he denied that he attempted to strike, kick, or bite any of the officers during the handcuffing process. § 87(2)(b) added that he was “calm” during the incident and did not resist because he knew there was nothing he could do. § 87(2)(b) alleged that he sustained cuts on his hands, bicep and elbow, but he was unable to specify how he sustained those injuries. § 87(2)(b) also alleged that the left side of his face was swollen due to the knee being pressed against it (BR 04). § 87(2)(g)

§ 87(2)(b) recalled being near the door when the officers opened it. An officer then commanded § 87(2)(b) to exit the apartment, to which she complied. § 87(2)(b) was approximately one foot away from the door and observed officers “rush” § 87(2)(b) inside the apartment and push him to the floor. The officers then allegedly put their guns against his back and held him down with their knees. Moments after § 87(2)(b) was taken to the ground, § 87(2)(b) also observed an officer use a Taser against § 87(2)(b) in dry-stun mode. § 87(2)(b) stated that she found the force excessive because § 87(2)(b) was not resisting. Afterward, § 87(2)(b) was handcuffed and removed from the apartment (BR 06).

PO Reilly testified that § 87(2)(b) was walking towards them and not complying with their commands, so they entered the apartment and forcibly took him to the floor. PO Reilly did not recall which officers assisted in the take down. When asked what specific actions he took to gain § 87(2)(b)'s compliance, he stated that he only recalled putting his hands on § 87(2)(b) to try to grab his arms, but § 87(2)(b) was violently resisting by pulling away his arms, twisting his body in an attempt to “twist out,” and at one point attempting to bite PO Ronan. PO Reilly clarified that he did not observe § 87(2)(b)'s attempt to bite PO Ronan, but heard PO Ronan verbalize that § 87(2)(b) was trying to bite him. PO Reilly eventually managed to put one handcuff around § 87(2)(b)'s wrist, but § 87(2)(b) continued to resist. At some point, PO Reilly heard a Taser go off, but he did not observe when or how it occurred. Afterward, the officers managed to handcuff § 87(2)(b) (BR07).

PO Ronan testified that he, PO Reilly, and other officers forcefully tackled § 87(2)(b) to the floor. § 87(2)(b) landed “on all fours” and refused to comply with the officers commands to give them his hands. § 87(2)(b) resisted by elbowing the officers and swinging his fists, and at one point § 87(2)(b) tried to bite PO Ronan's hand. § 87(2)(b) then attempted to roll onto his back to “get an offensive guard,” and the officers responded by trying to pull § 87(2)(b)'s arms behind his back and using their weight to push him flat on the floor. PO Ronan denied that § 87(2)(b) was kned by any officer. At some point during the struggle, Sgt. Turner warned § 87(2)(b) that he was going to Taser him, and then proceeded to dry-stun § 87(2)(b) though he did not actually observe it happen. PO Ronan explained that § 87(2)(b) was dry-stunned because of his proximity to other officers and because the sergeant did not want to accidentally strike one of the officers. PO Ronan noted that § 87(2)(b) continued to struggle after he was Tasered, but the officers eventually managed to place him in handcuffs (BR 08).

Sgt. Turner corroborated that § 87(2)(b) was non-compliant to the officers' commands and that officers took him to the floor. § 87(2)(b) landed on his knees and began to resist “violently,” which included § 87(2)(b) refusing to give up his hands, twisting his body, and

attempting to bite an officer's hand. § 87(2)(b) was commanded multiple times to stop resisting and to put his hands behind his back, but he did not comply. Officers attempted to overcome § 87(2)(b)'s resistance by pulling on § 87(2)(b)'s arms and legs so that he would be prone on the floor. Sgt. Turner dry-stunned § 87(2)(b) on his torso for one cycle, which lasted approximately five seconds, when § 87(2)(b) attempted to twist his body to get on his back. Sgt. Turner explained that he dry-stunned § 87(2)(b) because he had accidentally discharged the prong – which did not make contact with anyone – as he entered the apartment. Sgt. Turner could not recall if he issued § 87(2)(b) any commands before using his Taser. After his use of the Taser, § 87(2)(b) became more compliant and the officers were able to handcuff him. Sgt. Turner denied that he, or any other officer, kned § 87(2)(b) while he was on the floor. Sgt. Turner also noted that the struggle between the officers and § 87(2)(b) occurred in a walkway between the living room and the kitchen, which was approximately 15 to 20 feet long and five feet wide (BR 09).

PO Grover did not participate in the physical struggle with § 87(2)(b) but he observed that § 87(2)(b) was not complying with commands and laid with his hands under his chest to prevent himself from being handcuffed. PO Grover heard a Taser being used against § 87(2)(b) but he did not observe it being used and he believed that it did not have the intended effect because § 87(2)(b) continued to resist. Eventually, the officers managed to handcuff § 87(2)(b) (BR 10).

PO Taormina was unable to observe how the initial struggle started because he was with the female outside, but heard sounds that indicated that the officers were struggling with § 87(2)(b) and saw legs on the floor. PO Taormina also heard a Taser go off. Afterward, PO Taormina went to see if they needed his assistance. PO Taormina then observed § 87(2)(b) on the floor, face-down, and officers on top of him. § 87(2)(b) was “violently” resisting by pulling his arms back, pushing, pulling, kicking, and generally trying to fight the officers. The officers attempted to overcome § 87(2)(b)'s resistance by applying their “sheer weight” on top of § 87(2)(b). PO Taormina did not observe any other type of force being used against § 87(2)(b). Eventually, one of § 87(2)(b)'s hands became visible and PO Taormina placed a handcuff around it, which provided the other officers with enough leverage to place him in handcuffs (BR 11).

§ 87(2)(b)'s medical records noted that he was transported to the hospital due to being Tasered, and that he primarily complained of back pain. The hospital staff noted that he had a contusion to his left eyelid, abrasions on his lower back and pelvis, and complained of an unspecified fall. § 87(2)(b) declined a CT scan and the records noted that he wanted to go with law enforcement and was discharged to their custody. § 87(2)(b) returned to the same hospital on § 87(2)(b), and alleged that he was assaulted the previous night. He was diagnosed with a back strain and lower back pain, which was sustained during “legal intervention involving manhandling.” § 87(2)(b) did not receive any x-rays and was prescribed cyclobenzaprine, a muscle relaxant, and Naproxen, an anti-inflammatory. The hospital staff also noted that § 87(2)(b) had bruising, wrist swelling and pain, and left eye redness (see Privileged Document).

The Threat, Resistance, and Injury (TRI) report prepared by Sgt. Turner noted that he used a Taser against § 87(2)(b) because he was resisting by wrestling/grappling and pushing/shoving. The TRI report prepared by PO Ronan noted that he forcibly took down § 87(2)(b) to overcome § 87(2)(b)'s resistance, which included wrestling/grappling and pushing/shoving (BR). § 87(2)(b)'s arrest report and complaint report noted that § 87(2)(b)

§ 87(2)(b) “violently” resisted arrest by flailing his arms, twisting his body, and “attempting to bite officers” (BR).

An officer must use only the reasonable force necessary to gain control or custody of a subject. NYPD Patrol Guide, Section 221-01 (BR 14). A Taser, which is classified as a less lethal device and is intended to augment and provide a greater margin of safety for MOS who might otherwise be forced to physically subdue a dangerous subject, should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person. The use of a Taser is classified as a significant intermediate use of force option such as pepper spray or impact techniques. Drive stun mode should not be the primary method of use unless exceptional circumstances exist. NYPD Patrol Guide, Section 221-08 (BR 17).

§ 87(2)(g)

[REDACTED]

Allegation I – Discourtesy: Police Officer Jatinder Grover spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when he was on the floor, he asked the officers what he had done, and an officer allegedly responded with, “Shut the fuck up.” § 87(2)(b) was unable to provide a description of the officer because he was face-down when the discourtesy was allegedly uttered

(BR 04). § 87(2)(b)'s phone statement was consistent with his in-person statement (BR 05). § 87(2)(b) did not mention that any officer spoke discourteously to § 87(2)(b) (BR 06).

PO Grover did not recall if he, or any other officer, told § 87(2)(b) to "shut the fuck up." PO Grover acknowledged, however, that it was possible that other officers could have spoken discourteously to § 87(2)(b) but that there was too much commotion and he could not be certain. PO Grover heard profanity during the struggle, but he was not sure if officers or the females present were stating them. PO Grover admitted that he used profanity during the struggle, but he could not recall specifically what he said, and he explained that it was used in the form of a command when § 87(2)(b) was not complying with instructions (BR 10). All of the other officers interviewed for this case denied that they, or any other officer, spoke discourteously to § 87(2)(b).

PO Grover did not recall telling § 87(2)(b) to "shut the fuck up," but he did admit to using profanity during the incident in the form of a command, though he could not recall the specific profanity. All of the other officers interviewed denied hearing any officer speak discourteously to § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation K – Force: Police Officer Jose Mejia used physical force against § 87(2)(b)

§ 87(2)(b) alleged that after he was removed from the apartment, he was escorted to an RMP, bent over the vehicle, and was then searched. Afterward, § 87(2)(b) was placed inside of the RMP by an officer, but PO Mejia closed the RMP's door on § 87(2)(b)'s foot and walked away. § 87(2)(b) screamed that his foot was stuck in in the door, but officers were unresponsive. Approximately 15 minutes later, PO Mejia returned, opened the door, instructed § 87(2)(b) to put his feet fully into the vehicle, and closed the door once more. § 87(2)(b) was wearing sneakers on the date of the incident. § 87(2)(b) did not sustain any injuries from allegedly having the door closed on his foot, but he felt "a little" pain in his toes. § 87(2)(b) was then transported to § 87(2)(b) (BR 04). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) did not see or interact with § 87(2)(b) after he was removed from the apartment. She did not observe when § 87(2)(b) was placed inside the RMP (BR 06).

PO Mejia arrived to the location after officers had already entered the apartment. Approximately five minutes after arriving, § 87(2)(b) was escorted out of the apartment. Sgt. Turner then instructed PO Mejia to take § 87(2)(b) to § 87(2)(b) immediately. PO Mejia and his partner then escorted § 87(2)(b) to their RMP. PO Mejia searched § 87(2)(b) prior to placing him inside the RMP, and no contraband was found. PO Mejia then opened the door, placed § 87(2)(b) inside, with both feet fully inside the vehicle, and then closed the door. PO Mejia denied that § 87(2)(b)'s foot was ever caught in the door, and he did not hear § 87(2)(b) complain about his foot being stuck in the door. After § 87(2)(b) was placed inside the vehicle, PO Mejia and PO Joseph Rojas departed to § 87(2)(b) (BR 18). All of the other officers interviewed for this case denied observing § 87(2)(b)'s foot caught in the door, and they did not hear him complain that his foot was stuck in the RMP's door.

§ 87(2)(b)'s medical records do not mention any injuries, pain, or complaints related to his feet (see Privileged Document).

§ 87(2)(g)

Allegation L – Abuse of Authority: Sergeant Sean Turner searched § 87(2)(b) in Queens.

It is undisputed that officers, on the direction of Sgt. Turner, searched § 87(2)(b)'s apartment for the machete after his arrest. § 87(2)(b) however, did not observe the search as he was outside of the apartment and under custody.

In her unverified phone statement, § 87(2)(b) stated that she forgot something in § 87(2)(b)'s apartment and was allowed to go back inside to retrieve it, at which point she observed officers searching § 87(2)(b)'s bedroom. The officers had opened drawers, looked in his closet, and searched his bed (BR 06).

Sgt. Turner testified that after § 87(2)(b) was removed from the apartment, he instructed officers to search the immediate area for the machete. Officers also searched § 87(2)(b)'s bedroom. The machete was eventually found underneath a couch in the living room, approximately five to ten feet away from where the struggle with § 87(2)(b) occurred. Sgt. Turner indicated that the bedroom was searched because § 87(2)(b) had exited that area when officers opened the door to his apartment. Sgt. Turner did not recall whether any cabinets or drawers were searched. Sgt. Turner confirmed that the officers only searched the apartment for the machete, and no other contraband was removed from the apartment. Sgt. Turner estimated that the officers searched the apartment for approximately 30 minutes (BR 09).

PO Reilly noted that after § 87(2)(b) was removed from the apartment, a sweep of the premises was conducted to ensure there were no other individual inside the apartment. PO Reilly also asked one of the females where he could find the machete, and she told him it was in the bedroom. PO Reilly did not recall where specifically he searched, but only that he searched wherever a machete could be hidden. PO Reilly eventually found the machete under a couch near the area where officers had struggled with § 87(2)(b) (BR 07). PO Ronan recalled that one of the females alleged that § 87(2)(b) had hidden, thrown, or broken her cell phone, so he and other officers searched for the cell phone and for the machete. PO Ronan searched the kitchen and § 87(2)(b)'s bedroom, which included a search under the dresser, behind the dresser, under the bed, and in the bedroom closet. PO Ronan did not recall if he opened any cabinets or drawers (BR 08). PO Grover testified that he was only aware of a search occurring in the

immediate area where § 87(2)(b) was apprehended and he did not recall Sgt. Turner directing officers to search the apartment (BR 10). PO Taormina participated in the search of the apartment and searched the back of the couch, the back of the T.V., behind a dresser, in a closet, and he opened a few kitchen cabinets (BR 11).

A warrantless search of a home is per se unreasonable, and thus unconstitutional outside of narrow exceptions. Even where exigent or emergency circumstances justify a warrantless entry into a protected area, the scope of the duration of a warrantless search must be limited by and reasonably related to the exigencies of the situation. Once the exigent or emergency circumstances have abated, any subsequent warrantless search for evidence will be improper. People v Jenkins, 24 N.Y.3d 62, 20 N.E.3d 639, 995 N.Y.S.2d 694, 2014 N.Y. LEXIS 2822, 2014 NY Slip Op 07007 (N.Y. 2014) (BR 19).

§ 87(2)(g)

Squad: _____

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date